S. HRG. 101-59

NOMINATIONS—APRIL

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

NOMINATIONS

APRIL 5, 1989

WENDELL L. WILLKIE, II, TO BE GENERAL COUNSEL, DEPARTMENT OF COMMERCE

APRIL 12, 1989

ELAINE CHAO, TO BE DEPUTY SECRETARY, DEPARTMENT OF TRANSPORTATION

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WENDELL L. WILLKIE II, TO BE GENERAL COUNSEL, DEPARTMENT OF COMMERCE

WEDNESDAY, APRIL 5, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, at 9:05 a.m., in room SR-253, Russell Senate Office Building, Hon. Richard H. Bryan presiding.

Staff members assigned to this hearing: Mike Nelson, Becky Kojm, professional staff members; and Ruth Johnson, minority professional staff member.

OPENING STATEMENT BY SENATOR BRYAN

Senator BRYAN. Good morning.

Today the Commerce Committee will consider the nomination of Wendell Willkie II to be General Counsel of the Commerce Department.

The functions of the Commerce Department are many and varied and are of critical importance. They include promoting international trade, issuing patents, monitoring the economy, predicting the weather, protecting our fisheries, and enhancing America's technological base.

Given that decisions made at the Commerce Department can have billion dollar impacts on American and foreign businesses, it is critical that we have top-notch people making those decisions.

Mr. Willkie, on behalf of the Commerce Committee I am pleased to welcome you here today. I have had an opportunity to review your record and was quite impressed. Your experience both as General Counsel at the Department of Education and before that as General Counsel at the National Endowment for the Humanities has prepared you well to serve as General Counsel for the Department of Commerce.

As you know, yours is the second Commerce Department nomination that the Administration has submitted to us, and the fact that you are the second to come before this Committee indicates the level of importance that Secretary Mosbacher attaches to your job. I can certainly understand why he would want an able lawyer such as yourself at his side.

I am pleased to be chairing today's hearing and look forward to the Committee's consideration of your nomination. And I note with pleasure the presence of my colleague, Senator Boschwitz, who is here to introduce the nominee. Senator Boschwitz.

STATEMENT OF HON. RUDY BOSCHWITZ, U.S. SENATOR FROM MINNESOTA

Senator BOSCHWITZ. Thanks, Mr. Chairman.

It may seem unusual that I am here on behalf of Wendell Willkie. However, he grew up in Minnesota. I know his mother very well, and have often been in their home. They are a neighbor of ours in Minnesota.

And as you point out, his record is a very distinguished one for a young man. You said some of the things that I had intended to say.

You did not mention the fact that Wendell is a Rhodes Scholar and that he graduated first from Harvard and then the University of Chicago with honors. I think that his experience, his character, and his family as I have known them over the years make him just the kind of person that we are seeking in high levels of government.

I believe that Wendell Willkie is going to have a very, very bright future in various parts of our government.

Of course, I know his name well, as we all do. One of my first recollections in politics is when, from the balconies and from the chairs of the convention a cry arose for his grandfather to be our presidential nominee.

I am very pleased and particularly honored to introduce him to the Committee this morning. I hope that his nomination will go forward quickly and that we will vote on it within the next few days.

Senator BRYAN. Senator, thank you very much.

Mr. Willkie, at this time we would like to hear from you. And I am made aware that your wife and perhaps other members of your family are here today. If you would care to do so, we would be delighted to have you introduce them and make their presence known.

[The biographical sketch and questions follow:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Willkie (Last) Wendell (First) Lewis, II (Other)

Address: 1613 30th Street, N.W. (Current residence) Washington, D.C. 20007

U. S. Department of Commerce (Business) 14th & Constitution Avenue, N.W. Washington, D.C. 20230

2. Position to which nominated: General Counsel U.S. Department of Commerce

Date of nomination: March 9, 1989

3. Date of birth: October (month) 29 (day) 1951 (year)

Place of birth: Indianapolis, Indiana

4. Marital status: Married

Full name of Spouse: Carlotta Anne Fendig Willkie

5. Names and ages of children: None

6. Education: Institution	Dates attended	Degrees received	Dates of degrees
Harvard College	1969-73	A.B.	1973
Oxford University	1973-75	B.A., M.A.	1975, 1983
University of Chicago	1975-78	J.D.	1978

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1/30/89	Present	U.S. Department of Commerce	14th & Const. Ave., NW Washington, D.C. 20230	Special Advisor to the Secretary
11/88	1/89	Office of the President-Elect	1825 Connect. Ave., NW Washington, D.C. 20270	Counsel
9/88	11/88	Bush-Quayle 88	733 15th St., NW Washington, D.C. 20005	Special Counsel
1985	1988	U.S. Department of Education	400 Maryland Ave., SW Washington, D.C. 20202	General Counsel
1985		U.S. Department of Education	400 Maryland Ave., SW Washington, D.C. 20202	Chief of Staff/ Counselor to the Secy.
1984	1985	The White House	1600 Penn. Ave., NW Washington, D.C. 20500	Assoc. Counsel to the President
1982-1984		National Endowment for the Humanities	1100 Penn. Ave., NW Washington, D.C.	General Counsel
1978-1982		Simpson Thacher & Bartlett	425 Lexington Ave. New York, NY 10017	Associate

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Special Counsel Bush-Quayle 88

Surrogate speaker for Republican National Committee and Bush-Quayle '88 during 1988 Presidential Campaign (see response to Question 13)

Financial Contributions: Alan Keyes for U.S. Senate 8/25/88 $100

Richardson for Senator 1/14/85 $250; Richardson for Senator 8/7/84 $100;

Moynihan '82 6/1/81 $160

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

Member, American Bar Association

Director (unsalaried), Prince George Condominium Association (personal residence)

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Rhodes Scholarship - 1973-1975

Harvard College Scholarship - 1970-1973

12. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

The two published articles I have located are enclosed.

Commentary "The 'Overregulation' of Schooling" Education Week, July 20, 1988

School Aid: Constitutional Issues After Aguilar v. Felton, The Catholic Lawyer, Vol. 31, No. 2 (1986)

In addition, a number of letters to the editor have appeared in the New York Times, The Washington Post, The Chronicle of Higher Education and other publications. Also, I believe that excerpts from certain of my speeches (also enclosed) have been reprinted in various minor and education publications.

13. Speeches: Identify each speech which you have given during the past 3 years, the organization to which the speech was given, and supply two copies of each speech.

Most of the speeches I have given in this period were "off-the-cuff" or from notes. Enclosed herewith are two copies of all the prepared texts I have been able to locate. Also enclosed are lists of my speaking engagements for each of the last three years. In virtually every case, my remarks focused on educational issues.

14. Qualifications: State what, in your opinion, qualifies you to serve in the particular position to which you have been nominated.

I have previously served (for almost three years) as general counsel of an Executive Department and (for one year) as associate counsel to the President. Prior to that time I had served (for two years) as general counsel of a small Federal agency, rendering virtually all legal services. This experience has given me substantial exposure to a wide range of legal questions I would address as general counsel of the Department of Commerce, including the legislative and regulatory process, administrative, personnel and ethics questions. In addition, the diversity of my past legal experience (including four years with a major Wall Street law firm) would be helpful in addressing substantial new legal issues in this position.

UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary
Washington, D.C. 20230

April 4, 1989

Honorable Ernest F. Hollings
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Hollings:

I have enclosed the responses to the pre-hearing questions sent to me in connection with my confirmation hearing scheduled for tomorrow, April 5. If I may be of further assistance, please do not hesitate to contact me.

Thank you for your consideration.

Sincerely,

Wendell L. Willkie
General Counsel-Designate

Enclosure

QUESTION #1:

What do you believe to be the appropriate role of an agency General Counsel with respect to agency policy-making? Should the General Counsel be a policy-maker or should his or her role be limited to providing legal advice on the policies proposed by the Secretary and his delegates?

ANSWER:

I believe that the appropriate role of the General Counsel of the Department of Commerce is to provide the best possible legal advice to the Secretary of Commerce and to other Secretarial officers. The General Counsel should also serve as the chief ethics officer for the Department and ensure, to the best of his ability, that all activities of the Department are carried out in accordance with pertinent laws and regulations.

The role of the General Counsel may, on occasion, extend to assisting in the formulation of policy. This is especially so with regard to certain issues that are largely matters of legal policy, as in the examples of antitrust reform, product liability, and some aspects of intellectual property rights. I shall, of course, endeavor to provide the Secretary with my best judgment on issues of policy whenever the Secretary requests advice from me.

QUESTION #2:

If confirmed, do you see yourself interacting frequently with the Commerce Committee? For what reasons? When you were General Counsel for the Department of Education, how often did you interact with Congress?

ANSWER:

If confirmed, I hope to interact frequently with the Commerce Committee. I would make every effort to explain legal advice I have rendered, to answer Committee questions, to provide technical assistance, and to fashion legislative proposals and communicate the views of the Administration on issues of particular importance to the Department of Commerce.

When I was General Counsel for the Department of Education, the primary responsibility within that Department for communications with the Congress was assumed by the Office of the Assistant Secretary for Legislative Affairs and the Office of Planning, Budget and Evaluation. Nonetheless, in my job as General Counsel

of the Department of Education I endeavored to be helpful to members of Congress, whenever appropriate, on a broad range of issues.

QUESTION #3:

During the Reagan Administration, the Congress and the Administration were often at odds over whether Federal agencies should abide by Congressional report language. In addition, in several cases, agencies chose to interpret legislation in ways clearly different from the way Congress intended. Do you think that the Bush Administration will try harder to respect the intent of Congress? Can we be assured that you personally will honor Congress' intent when implementing legislation?

ANSWER:

Throughout my service with the Government, I have always believed that it is of critical importance for executive branch officers to make their best efforts to act in accord with Congressional mandates. In this regard I believe that Committee reports are typically most instructive in ascertaining Congressional intent. I can assure you that I will do my utmost in interpreting statutes to ascertain the Congressional intent and to advise Commerce officers accordingly.

QUESTION #4:

One part of Public Law 100-519 is entitled the 'National Technical Information Act of 1988'. A key provision, which was negotiated with the Commerce Department's General Counsel, authorizes the Secretary to "retain and, subject to appropriations Acts, utilize its net revenues" for NTIS's modernization. However, in response to written questions from the Committee, Secretary Mosbacher indicated that there may be some problem in implementing this language and that the Department was reviewing whether this authority is sufficient to allow NTIS to retain and use net revenues. What is your judgment on this issue? Is the 1988 language sufficient to allow NTIS to use its revenues? When will the Department formally give NTIS that authority, and will it submit a request to the Appropriations Committees?

ANSWER:

I am advised that the Office of General Counsel informed the Director of the National Technical Information Service (NTIS) on March 15, 1989 that the authority provided by section 212(a)(1)(B) of Public Law No. 100-519 to NTIS to "retain and utilize net revenues" is legally sufficient to allow NTIS to use net revenues for implementation of modernization plans. I understand that NTIS is currently developing spending plans to implement its modernization plan. While the Administration will need to review those spending plans, we anticipate submitting a request to the Appropriations Committees during Congressional consideration of the FY 1990 Budget.

QUESTION #5:

Our ability to negotiate and enforce tough trade agreements has been hampered by the "revolving door" problem. How will you ensure that Department employees live up to the letter and the spirit of ethics laws and regulations?

ANSWER:

The Bush Administration is proposing comprehensive ethics legislation which, among other matters, specifically addresses the "revolving door" problem and, specifically, its effect on trade negotiations. If enacted, this would be the first time that trade negotiations have been explicitly addressed in the ethics laws. I hope that the Congress will give careful attention to the President's proposal.

If confirmed as General Counsel, I will work to ensure that all employees in the Department fully understand and abide by the ethics laws, rules and regulations, and further, to ensure that these rules and regulations are fully enforced.

QUESTION #6:

During the recent pay raise debate, there was a great deal of discussion about the problem of retaining good people in the top positions at Federal agencies due to uncompetitive Federal salaries. Lawyers who deal with trade and other Commerce Department issues can command high salaries in the private sector. Is the Commerce Department having trouble keeping the high-powered legal talent that it needs? Besides raising the

present cap on Federal salaries what could be done to help solve this problem?

ANSWER:

I am informed by supervisory attorneys in the Office of General Counsel that the Office has noticed a substantial reduction in the number of highly qualified attorneys applying for positions. While to date the office has been able to fill the openings with good people, it takes much longer to find them. Further, I am advised that the disparity in pay between the Government and the private sector has increased and that as a consequence the time in the job for the attorneys leaving the Department has decreased. On the other hand, there continue to be many young people who are interested in public service because it provides them the opportunity to work on interesting issues with a high degree of exposure and responsibility early in their career. One of my objectives if confirmed as General Counsel will be to make sure that young attorneys continue to have that opportunity.

QUESTION #7:

It would be good if the Committee knew where you stood on the ideological spectrum when it comes to trade policy. If advocates of erasing all U.S. tariffs are at one end of the spectrum and advocates of following protectionist tariff policies of countries like Korea are at the other end, where would you fall?

ANSWER:

As I noted in my answer to Question 1, I believe that the role of General Counsel in policy-making is limited, except with respect to a very few issues which are principally legal in nature. On a matter such as trade policy, I will be guided entirely by the policies established by Secretary Mosbacher and other appropriate Secretarial officers whose responsibility is to formulate the Administration's position on trade. Secretary Mosbacher has said that he is a firm believer in free trade but that international trade must be a "two-way street." The Secretary is firmly committed to effective and aggressive enforcement of the new Omnibus Trade and Competitiveness Act to accomplish that objective.

QUESTION #8:

As a general matter, do you believe tort reform at the federal level is currently necessary or appropriate? Why or why not?

ANSWER:

As a general principle, I believe that tort reform is needed to address the problems inherent in the present system. These problems include the confusion created by the patchwork of different state product liability laws and the rising transaction costs associated with our present tort system. Many of the states have made changes in their tort laws to help alleviate the problem, but I also believe that there may be adequate justification for Federal action in addition to this state activity. A great deal of attention has been given in the past three Congresses to this issue, and the Bush Administration looks forward to working with the Congress as it continues to address this matter.

QUESTION #9:

As General Counsel of the Department of Commerce what, if any, role would you play on the ongoing debate regarding federal tort reform?

ANSWER:

If confirmed as General Counsel, I will take my lead from Secretary Mosbacher and assist him in any manner he deems appropriate to fashion and advocate the Administration's position on Federal tort reform, particularly as it relates to product liability. I anticipate that this would mean working closely with the Justice Department and with whatever interagency mechanism the White House decides should review the issue.

QUESTION #10:

The Reagan Administration advocated enactment of federal tort legislation which would include provisions capping non-economic damages, limiting attorneys' contingency fees and eliminating joint and several liability in cases where defendants have not acted in concert. Do you think the Bush Administration will do the same? Would you support such legislation? Why or why not?

ANSWER:

At this time I can not tell you what position the Bush Administration will advocate on tort reform. Within the near future we will need to take a hard look at Congressional proposals and those of others, weigh their effects on the tort system, gauge how factors like state legislative action and court rulings have changed circumstances, and make an assessment on what course of action would be best for consumers, businesses and victims of product-related injuries.

QUESTION #11:

The Administration's latest budget had only a very slight increase in the U.S. and Foreign Commercial Service US&FCS) budget. Yet, the dollar's low position against most foreign currencies means the 66 offices abroad have much less real money to work with. Will this mean a reduction in services in overseas offices?

ANSWER:

If confirmed as the General Counsel, I would not have responsibility for such purely programmatic issues. I am advised, however, by the Department's budget office that the devaluation of the dollar has been the chief reason why only 147 of the 190 overseas officers positions in the US&FCS budget are filled. To correct this reduction in services, the Department has requested an additional $6 million in FY 1990 to allow us to fill all of the positions.

QUESTION #12:

The outgoing Administration has continually expressed support for the United States Travel and Tourism Administration (USTTA), but provide zero-funding from general revenue in budget proposals. President Bush, during his campaign, pledged his support for USTTA. Do you support general revenue funding for USTTA? Do you support the user fee concept offered in the budget recently sent to Congress?

ANSWER:

If confirmed as the Department's chief legal officer, I do not expect to get involved in programmatic issues which do not raise legal issues. The Secretary has, however, announced his support for the user fee concept offered in the FY 1990 budget.

QUESTION #13:

The Bureau of Economic Analysis (BEA) is responsible for correcting data on Foreign Direct Investment (FDI) in the U.S. and reporting that data in yearly and benchmark report. These reports can run several years behind. Given the growing level of FDI, the need for accurate and timely data is increasingly important. Do you see a strengthening of BEA's data collection ability as either a necessity or a priority?

ANSWER:

Again, if confirmed as the Department's chief legal officer, I would not expect to address programmatic issues that do not have a legal dimension. I am assured, however, that the Bureau of Economic Analysis makes every effort possible within the limits of available resources to publish surveys of foreign direct investment in a timely manner. I am told that at least part of the problem is attributable to a lack of timely response by those required to report.

QUESTION #14:

The previous General Counsel at the Commerce Department was very involved in dealing with commercial space issues. Would you anticipate being involved in such issues?

ANSWER:

No, I will not be involved in dealing with commercial space issues beyond the occasional request for a legal opinion in my capacity as chief legal officer.

QUESTION #15:

The recently established National Space Council was set up to provide interagency coordination on space issues. Who will represent the Commerce Department at Space Council meetings?

ANSWER:

The Secretary will represent the Department on the Space Council. The first item of business at the initial meeting of the Council on March 24th was to establish a Landsat Working Group to conduct a comprehensive review of the Landsat program. Thomas Pyke, Assistant Administrator of NOAA for National Environmental Satellite Data and Information Service, will represent the Department on the Working Group.

QUESTION #16:

Section 219 of the FY 89 NASA Authorization Bill (P.L. 100-685) indicates that "nothing in this section authorizes the Department of Commerce to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress." Would you please indicate the current status of the Department's Office of Commercial Space Programs? And what plans does the Secretary have for this office and for commercial space activities? Is any consideration being given to incorporating this office into another part of the Department, such as the International Trade Administration?

ANSWER:

This question is currently under review within the Department and I believe that Secretary Mosbacher will be making a decision shortly. Incorporating the Office of Commercial Space Programs into ITA is one of the options under active consideration.

QUESTION #17:

Pursuant to the Land Remote-Sensing Commercialization Act of 1984 and the National Space Policy of February, 1988, the Department of Commerce was given responsibility for the commercialization of land remove-sensing. In light of the Department's performance in this matter, what would be the Department's position if the Congress were to amend P.L. 98-365, the Land Remote-Sensing Commercialization Act of 1984, and put the responsibility for the Landsat program in another federal agency?

ANSWER:

As noted in the answer to question 15 above, the first item of business for the National Space Council was to establish a Landsat Working Group. This working group is conducting a comprehensive policy review of the Landsat program. It is premature to provide you with the Department's views about transferring the program to another agency until the Council has completed its review. I am advised that the results of the Council's review will be made available in time for the Congress' deliberations on this matter.

STATEMENT OF WENDELL L. WILLKIE II

Mr. WILLKIE. Yes, Mr. Chairman. Behind me is my mother-in-law, Mrs. Carlotta Fendig, and my wife, Carlotta Fendig Willkie. If they might stand.

Senator BRYAN. It is a pleasure to have both of you here with us this morning.

Mr. WILLKIE. And as you might observe, my wife has brought our family with her.

Senator BRYAN. Their presence will be noted for the record.

Mr. Willkie, you may proceed.

Mr. WILLKIE. Thank you, Senator. A brief opening statement if I might. And I would like to thank Senator Boschwitz for his kind introduction.

Mr. Chairman, I am honored to appear here today as the President's nominee to serve as General Counsel of the Department of Commerce. I am, of course, most grateful to President Bush for providing me with the opportunity to serve in his Administration, and I am indebted to Secretary Mosbacher for his confidence and support. And I would particularly like to thank this Committee for scheduling this hearing so promptly.

If I am confirmed as General Counsel, my primary responsibility will be to provide the Secretary and other senior Department officers with the legal support and advice they need to carry out the Department's programs. Although many of the substantive issues I would address are substantially different from those I have previously focused on in government, I would hope and trust that my experience as counsel in three other agencies would help me to ensure that the best possible legal advice will be rendered by the General Counsel's Office.

I am well aware that this Committee has vital interests in the Department's activities. If confirmed, I would do all in my power to assist the Secretary and the Department generally in responding helpfully, constructively, and creatively to the interests and concerns of this Committee in particular, as well as the Congress as a whole.

In summary, if reported favorably by this Committee and upon confirmation by the Senate, I will endeavor to the best of my ability to discharge my responsibilities as General Counsel.

Thank you, and I very much welcome your questions.

Senator BRYAN. Thank you very much, Mr. Willkie.

And your compliments are to go to the Chairman for the prompt scheduling of this.

Senator Exon has another hearing that he has to attend this morning and he has asked for an early opportunity to ask you some questions.

Senator EXON. Mr. Chairman, thank you very much. And thank you, Senator, my good friend from Missouri, for allowing me to speak a little bit out of order this morning.

I want to welcome you also, Mr. Willkie, and I see no reason why we would not move for prompt confirmation of your very important nomination. And I am pleased to echo the Chairman's words that this is the second nomination we have had for Commerce out of the Administration. It seems to me it is a good one.

If I could, I would just like to ask you about two extremely important matters that I think that the Commerce Department is going to be very much involved in in the immediate future.

The first regards a bill that became an amendment to the Trade Bill last year, and requires that the Commerce Department and other Departments under the direction of the President take appropriate action when a foreign national attempts a buyout of any American corporation or company that would adversely affect the national security interest of the United States.

That amendment eventually took the form of the so-called Exon-Florio amendment to the trade bill. I think that this has already caused two or three pauses among those foreigners who would like to purchase American industries.

Secondly, and maybe equally important over the long run as far as agriculture is concerned is another amendment that established an Office of Barter at the Commerce Department. I am wondering how familiar you are with either of these moves, and what is your attitude with regards to how these can be implemented?

Mr. WILLKIE. As to the second matter, Senator, my family has certain agricultural interests and so I have recused myself from dealing with such subjects.

As to the first, I am certainly familiar with the provisions of the Exon-Florio legislation.

Senator EXON. That is EX'-un, by the way.

Mr. WILLKIE. I appreciate the distinction, particularly at this point in time. But I can assure you that the Department is fully committed to the effective implementation of that legislation. As you say, we are already at work in reviewing potential acquisitions that might be subject to the provisions of these new statutory requirements. And I promise you that I will do all that I can to make sure that we implement that appropriately and as the Congress intended.

Senator EXON. Thank you, Mr. Willkie.

I do not believe that you should have to recuse yourself from the barter implementation per se because of some agricultural interests. Barter is something that goes on beyond and over agriculture, although it is primarily affected, and I would not consider it improper for you to become involved in those matters.

The holdings of the Willkies, however extensive, would be miniscule as far as this matter is concerned. I take it maybe that you are not thoroughly familiar with this legislation. I would urge you to take a look at it, because I think that this is something that can basically affect the United States of America in our effort to cut down our international trade deficit.

One of the problems that we have, as you probably know, is the cash-poor third world countries and others that just must exchange something that they produce or have or manufacture for something that they might need here, whether that is agricultural products or something else.

So it has very broad implications, and I would hope that we could recognize and realize it. Other countries have been using barter to their advantage for a long, long time, while we unfortunately have been married to the almighty dollar as the only

medium of exchange, and there are others that we have to look to if we are going to improve our serious imbalance of trade.

But if you would take a look at that, I would appreciate that, Mr. Willkie.

Thank you, Mr. Chairman.

Senator BRYAN. We have been joined by the Chairman this morning. Senator Hollings.

The CHAIRMAN. Thank you, Mr. Chairman. I will take my turn.

Senator BRYAN. Mr. Willkie, yours is not only a distinguished name in American politics, you have also earned a very impressive record as a young man, and each Member of the Committee has been provided with a copy of that.

There has been a concern I think among all of us that we are not always able to attract people of your quality to public service. What words of enlightenment do you have for those of us who, in a very bipartisan sense, want the very best people to be part of any Administration, Democrat or Republican, to serve in very important roles like the one you are seeking at this time?

Mr. WILLKIE. Well, I think that public service still does retain its attraction to young people. The opportunity to serve in Government, hopefully to make a contribution, is one I still think has a great deal of appeal.

Nonetheless, the disparity in compensation that has grown in recent years certainly has made it more difficult to draw young people into Government. And I think it is an issue that all of us need to be concerned about, especially over time, because the direction that we are moving in is I think unfortunate.

Senator BRYAN. I note the arrival of Senator Bentsen.

Senator BENTSEN. Good morning.

Senator BRYAN. Nice to have you with us this morning, sir.

Mr. Willkie, how is Secretary Mosbacher going to organize the Department with reference to your primary responsibility? Have you had a chance to visit with him on that?

Mr. WILLKIE. Yes. Mr. Chairman, as I understand it the direction that the Secretary has given to me is to be responsible for all the legal advice that is rendered within the Department, to ensure that the legislative process, that the regulatory process, functions as appropriate, as it should; that I help respond to the interests and concerns of this Committee.

Although I suppose there will be times when I am called upon for policy advice, my primary responsibility is to ensure that all of us at the Department act in accordance with the various legal requirements that we find placed upon us.

And I might add in that regard that I will have, I think, a very able, substantial staff of lawyers to assist me.

Senator BRYAN. There are a number of concerns which this Committee will be dealing with as relates to your Department. One of those that is of importance is the question of America's competitiveness. We have had some testimony the other day with respect to the space program.

Do you have any thoughts on that that you might care to share with us?

Mr. WILLKIE. Well, I do not think that there is any issue that is of greater concern to Secretary Mosbacher than promoting Ameri-

can competitiveness, as I think he spoke to effectively at the time of his confirmation hearing a couple of months ago.

And his guidance to his new appointees at the Department is to make sure that we do all that we can to use the existing resources at the Department, its various programs, to promote these concerns, to redress the trade deficit and the various problems that that entails, and otherwise to engage in the Department's programs in such a way that we fulfill our mandates in this area.

Senator BRYAN. Finally, exercising the prerogative of the Chair for the moment, I would just ask you to keep a friendly eye on our tourism industry. It is of particular importance to us in Nevada, and we will be talking to the Secretary about some of those programs later on.

Senator Danforth.

Senator DANFORTH. Mr. Willkie, you have a remarkable record and I am delighted you are going to be taking this job.

Does the fact that you were raised in Minnesota mean that you are a hockey player?

Mr. WILLKIE. Well, I grew up half in Indiana and half in Minnesota, and I am afraid by the time I got to Minnesota that the kids were so far beyond me that I could not catch up.

Senator DANFORTH. Well, I think that that is a good thing for your knees.

I would just like to say that I think the Commerce Department is going to play an increasingly significant role in this government. I believe that Secretary Mosbacher is really off to an excellent start. He has been very much in the news, of course, with respect to the FSX issue, and more generally in connection with the role of the Commerce Department as being an advocate for U.S. commercial interests in the executive branch.

I think it is going to be an extremely challenging job, an extremely important job, and I am delighted that you will be undertaking it.

Mr. WILLKIE. Thank you, Senator.

Senator BRYAN. Senator Hollings.

The CHAIRMAN. Thank you, Mr. Chairman.

I thought I would use this morning to catch up on the mail. And I got down in the pile and I found this letter from Bratton Davis, who said: "I have just learned that my godson Wendell Willkie has been nominated to serve as the General Counsel."

I would ask consent to include that letter in the record.

Senator BRYAN. Without objection, it will be so included.

[The letter follows:]

U.S. BANKRUPTCY COURT,
DISTRICT OF SOUTH CAROLINA,
Columbia, SC, March 28, 1989.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC.

DEAR FRITZ: I have just learned that my Godson, Wendell L. Willkie, II, has been nominated to serve as General Counsel to the Department of Commerce. Without any reservation, I commend him to you as a fine gentleman who is bright, intelligent, resourceful, energetic, patriotic and moral. I have known him all of his life and I know nothing but good things about Wendell, who is a former Rhodes Scholar.

It, too, has been my good fortune to have known and admired his lovely wife, his parents and all four of his grandparents.

Margaret joins me in best wishes to Peatsy and you. We hope to see both of you in Columbia soon.

Sincerely,

J. BRATTON DAVIS,
Chief Judge.

The CHAIRMAN. Why do you not follow his politics?

I remember he supported me all along as a Democrat. He is the Chief Judge of the Bankruptcy Court down there, and appointed by Senator Thurmond. So maybe he has changed over and I have not checked up with it.

But I think, Mr. Wendell Willkie, that you ought to know, and I ought to reveal for the record, something which I have kept a secret. You see, I started out hollering for Wendell Willkie back in 1940 as a college student.

In July—I will never forget it—I stayed in the Bellevue-Stratford in the room right next to Herbert Hoover. I later had the distinction of being appointed by President Herbert Hoover on the task force investigating the intelligence activities in 1954.

But at that time as a student, we were up there in support of Robert Taft. And the Dewey crowd took over the Credentials Committee and ran us out. Now, Senator Danforth, I do not know how I can know about Republican chicanery, but somehow we got some badges. And like Oliver North, I did not question how we got the badges; I just followed my orders.

They told me to go to the side of the convention hall and give out the badges to our crowd, and we did that and went up in the gallery, chanting "We want Willkie, We want Willkie." In fact, Cliff Hanson was there, I found out later, and so was Gerald Ford.

Senator Bernard Maybank got me into the Democratic Party after the war, and I have been trying to get everybody else into it ever since.

I am impressed by your record. I have known Bratton Davis for years. Your father, Philip, did they not room together at college?

Mr. WILLKIE. Yes. Yes, they did, Senator.

The CHAIRMAN. Well, we have got another Rhodes Scholar on this Committee, Senator Pressler, and Senator Bradley and Senator Boren in the Senate. And I hope you can move on from that General Counsel spot and come on into the Senate some time.

We wish you well in your job. And I am like Senator Danforth; I think you will do an outstanding job and I am proud to support your nomination.

Mr. WILLKIE. Thank you very much. I appreciate it.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator BRYAN. Thank you very much, Senator Hollings.

Senator Bentsen.

Senator BENTSEN. Thank you, Mr. Chairman.

Mr. Willkie, I think trade is one of those important issues facing our country, and Commerce has always sat below the salt when it comes to negotiations. You have had Treasury, the Pentagon, and the State Department really determining trade policy for our country.

I just returned from Europe after talking to the President of the Commission for Europe 1992, the Vice President, the Trade Minis-

ter, and various others. They have understood trade for a long time and we have not in this country. We have not been trade-oriented, export-oriented.

I am glad to see what Secretary Mosbacher has done thus far. But I am deeply concerned and interested in what happens in the development of Europe 1992, and that it not be just free trade for Europeans, but for all.

Yet, I have come back, listening to them talk about domestic content and local content, 60 and 80 percent for automobiles, with the same type of thing for semiconductors. If we talked that way in this country, we would be charged with building Fortress America and preaching protectionism. Yet that is what we are hearing.

I do not think they have really made up their minds as to exactly where they are going to go. Out of some 275 proposals, they have about half of them approved by the various legislative bodies, of the twelve countries concerned.

I think it is absolutely imperative, not that we have a formal seat at the table, but that we are involved and that we counsel with them and make our concerns known to them, that we try to get that across. We have to have very competent people with good background and experience from Commerce over there involved in that process along with the United States Trade Representative and others that are expressing American concerns.

I listen to American international companies who think it is just great, no problem. And that is true for those companies who put a plant in one of those other countries; they will have access to the twelve. But for the medium-sized company in this country, we may have some real problems in the way of penetration of barriers to trade. We have been dedicated to the increase of world trade and expansion of world trade.

You will be an integral part of the Department of Commerce and one who will be in close contact with the Secretary, I urge you and the Secretary to really take a look at who you have over there representing you and how many people you have over there representing you, and how many might have some kind of an industrial background, to try to see what our companies are going to be facing in the sale of manufactured products and services.

So this is counsel to the counsel.

Mr. WILLKIE. I appreciate that, Senator Bentsen.

Senator BENTSEN. And I wish you well in your role. I would say certainly academically you are extremely well qualified. I think you will do a good job.

Mr. WILLKIE. Thank you, Senator. I appreciate it.

I can tell you that Secretary Mosbacher very much shares the sentiments that you have expressed about EC 1992. It is one of the top items on his agenda. As you know, generally he has not been a shrinking violet thus far, and he has made known to the Europeans his views, which he shares with you, that American business must have the opportunity to participate in this process on equal terms.

We will do our best in that regard.

Senator BENTSEN. Thank you, Mr. Chairman.

Senator BRYAN. Thank you very much, Senator Bentsen, for sharing those insights with us.

Senator Kasten.

Senator KASTEN. Mr. Chairman, thank you.

I too am enthusiastic about this nomination, and I hope that our Committee will move quickly to confirm Mr. Willkie. I congratulate you and I think we are fortunate to have you serving with Mr. Mosbacher in the Department of Commerce.

Thank you, Mr. Chairman.

Mr. WILLKIE. Thank you.

Senator BRYAN. Thank you very much, Senator Kasten.

Senator Ford.

Senator FORD. Thank you very much, Mr. Chairman.

Let me associate myself with the comments of Senator Bentsen. I remember being one of the original co-sponsors of local content legislation here and how effectively they beat me over the head.

But new industry from those countries that we were concerned about are now trying to impress me that there is 70 percent or 75 percent local content in there. And the effect of what we were about to do I think indicated their interest and their watchful eye.

And I have watched us as we have passed legislation to have someone assigned in our embassies in all foreign countries to look after trade, particularly in agriculture.

I hope, Mr. Willkie, that we can begin to get your attention and the Department's attention, so that we will not have to be pushing so hard, almost forcing the Department to do things.

As Senator Bentsen has said, the State Department, Defense Department, have been working our trade. You know, you do not want to make them mad, so you give them more money. And we go further, deeper and deeper in debt, as the song goes.

So I too applaud your nomination and look forward to your easy approval and look forward to working with you. I have some good feeling about what is going on. The Secretary was here and as you know, we talked about HDTV. And some in the government had just heard of that. You know, we were not paying much attention.

But it is an indication that the Department and this new Secretary is aware of things going on out there, and I am hopeful that he continues, and that you support him whenever you possibly can.

I thank you, Mr. Chairman, for letting me have some comments.

I like your background, I like your approach, and we will observe and see if our first impressions are correct.

Mr. WILLKIE. Thank you, Senator.

Senator BRYAN. Thank you very much, Senator Ford.

Senator Hollings.

The CHAIRMAN. Mr. Chairman, Senator Bentsen has made a very important observation. The fact of the matter is that as Chairman of the Finance Committee he knows very well that the Finance Committee has sort of saved the day.

The Commerce Committee was originally known as the Committee on Foreign and Interstate Commerce. Our duties and responsibilities are enunciated in the Constitution itself. Yet, it is hard to find a subcommittee on trade. We weaved it in with tourism when we reorganized.

But the fact of the matter is that our Finance Committee friends saved the day with the Special Trade Representative, because over the years the State Department, as Senator Bentsen was observing,

were selling the industrial backbone of America down the river just to make friends. They did not have any vision whatsoever as to what was really occurring.

They moved with the Reciprocal Trade Act and various other initiatives. And yet, we are still charged with policy.

Until Secretary Mosbacher, we have not had a Secretary over at Commerce who was much concerned about trade. The fact of the matter is that it has been infiltrated by the Japanese attorneys and representatives and consultants and influence.

There is no question in my mind, that you have got more persons retained by and representing the Japanese in Washington than we have in the Congress representing America. I might add, they are better paid, too.

But in any event, it boils down to market forces operating. I do not know why we politicians moan and groan about fair trade like it is a sort of welfare program: I am nice to you and you be nice to me. That never has worked with businessmen.

They look for a profit, and very properly so. They are not in the welfare business. They are in there to make money for their stockholders.

And in that light, the market does operate. When we make it in the economic interest or benefit of the Japanese or the European Economic Community to react, they will react. The EEC has their Europe 1992. They have had to do that in order to confront the Pacific Rim. By the year 2000, in less than eleven short years, the GNP of the Pacific Rim will exceed that of the United States and the EEC combined. Think on it.

We worked with the EEC representatives when I worked the textile bill in 1981. They had a $4.5 billion textile deficit, and we had a $4.5 billion deficit. The Europeans started enforcing their bilaterals and they have reduced their deficit to less than one billion dollars.

Ours has jumped to over $24 billion of the trade deficit we have in America. Think on that. A tremendous percentage of the trade deficit is due to textiles. It has continued to go up and away. And you would really be economically foolish to invest your money in a textile facility, because we do not enforce our agreements and everything else of that kind.

But it is not just textiles. It has moved up the line now and everybody wants a Sematech. They want one for computer chips, they want one for airplanes, they want one for communications. Every little itty-bitty interest is coming running forward to Congress.

Therein is the emphasis that Senator Bentsen is talking about—policy. We need to think in the general broad terms of what our policy should be. From my standpoint—of course I am not associating Senator Bentsen with mine—government is a comparative advantage. Old David Ricardo, the English psychologist, not an economist, back in 1831 was talking about free trade. Each country would take advantage of its comparative advantage. There would be no tariffs, there would be no barriers.

Hamilton, fortunately, told him to bug off. In 1789, exactly 200 years ago, the first bill that passed the national government on July the 4th, 1789 was a tariff bill of 50 percent on 70 articles,

starting with steel. They are celebrating something else this week; I hope they remember to celebrate this on the 4th of July.

We built up this economic industrial giant, the United States, with protectionism. And the EEC is moving in that direction. They have got to be able to compete because, like it or not, it is an international economy now and governments are a very formidable and integral part of that trade competition.

Ultimately, we are of course yearning for free trade. We will have to take a page from Roosevelt. In the days of the Depression, in order to keep the banks open he closed their doors. In order to save the farms, he plowed under the crops.

And today, in order to remove a barrier we have got to raise one, and then remove them both. But we just go to these international conferences and moan and groan. As the General Counsel for Commerce, just scratch all those conferences.

I got into one way back in 1961 with John F. Kennedy in the Fish Room with the Japanese, and now it is deja vu. They keep on meeting, everybody smiles and bows and tells us about the special relationship we've got.

The special relationship we've got is that we are not going to be number two, we are going down to number three economically, behind Japan and the EEC. That is what alarms Senator Bentsen, me, and everyone on this blooming Committee. It is time we sober up.

You cannot start a trade war, it has already been started. And we are up in the grandstand hollering "free trade." Down on the field it is the fourth quarter. We have got to get down on that field with you and the Commerce Department and Secretary Mosbacher and start fashioning some competitive trade, not free, not fair, but competitive trade.

The market does operate, and an integral, fundamental part of that market—I do not like it, you do not like it—is government. But you and I started it with the tariff bill. The British did before us. They had cargo preference and all of the other things. We were only emulating. The Japanese have only emulated us, and they have got a state of the art model now.

They correlate the financing, allocate it, protect the domestic. We have got our antitrust, they have got pro-trust. They target the foreign market, they subsidize it, and totally protect it. Yet, we run around hollering "free trade" and saying, oh, they make a better automobile.

Chevrolet and Ford sold automobiles in downtown Tokyo long before World War Two. They were not licensed after World War Two. It was Nissan and Toyota. They took American technology and built a protected domestic market—you still pay $16,000 in Tokyo for a Toyota you could buy for $12,000 in Washington today, right now this morning.

Yes, they fashioned a quality product. And they are now putting us all out of business. They even have Lee Iacocca running around, saying "Get a get a better deal, get a better buy, buy, buy, buy". I have heard that nonsense. He has not only got the Japanese Mitsubishi engine in it, now he has gone to Mexico.

And up here are the politicians moaning and groaning. They are out on the golf course. They do not know how to compete. Business-

men know how to compete. They are very, very competitive. What is not competing and not producing is our government here in Washington.

Let me stop right there, but I can tell you now you have got a real job to perform over there, and I think Secretary Mosbacher understands it. I commend you for it.

Senator FORD. Mr. Chairman, may I make an observation, too——

Senator BRYAN. You certainly may, Senator Ford.

Senator FORD. Our distinguished Chairman talked about Lee Iococca there a minute ago and said America is back. Americans are back selling foreign products.

The CHAIRMAN. Right.

It is unfortunate and we have got to correct it, and your Department is going to have a fundamental role in doing so.

Senator BRYAN. Thank you very much, Senator Hollings.

Mr. Willkie, you have gained considerable wisdom this morning and during the course of this confirmation process.

Senator FORD. We will see how well he takes it.

Senator BRYAN. This record will remain open for additional statements and questions until the close of business tomorrow.

This confirmation hearing is now over. Thank you.

[Whereupon, at 9:41 a.m., the Committee was adjourned.]

ELAINE CHAO, TO BE DEPUTY SECRETARY, DEPARTMENT OF TRANSPORTATION

WEDNESDAY, APRIL 12, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 2:05 a.m., in room SR-253, Russell Senate Office Building, Hon. Wendell H. Ford presiding.

Staff members assigned to this hearing: Carol Carmody; Becky Kojm, professional staff members; and Ruth Johnson, minority professional staff member.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Good afternoon, ladies and gentlemen and we welcome Miss Chao and Senator Wilson. Our hearing this afternoon is to consider the nomination of Ms. Chao to serve as the deputy to Secretary Skinner of the Department of Transportation.

Ms. Chao's academic background is certainly impressive and she has held a series of responsible jobs, most recently the Chairman of the Federal Maritime Commission and as Deputy Maritime Administrator at the Department of Transportation.

It is important for the Deputy Secretary to work closely with the Secretary and assist him in managing the Department. I have been very favorably impressed so far with Secretary Skinner. I believe he was a good choice and I expect you will be too, Miss Chao.

As I have told the Secretary, I hope to make your jobs a little bit easier by removing the Federal Aviation Commission from the Department this year. That will give you more time for managing other things. Even so, the job is a demanding one and we must have capable people at the Department.

I look forward to your testimony and I appreciate Senator Wilson coming over to introduce you. Senator McCain, do you have a statement you would like to make?

OPENING STATEMENT BY SENATOR McCAIN

Senator MCCAIN. Thank you, Mr. Chairman. I have had the opportunity of getting to know Miss Chao in her previous incarnations. She has done a superb job. We are very proud to have a person of her caliber, dedication and commitment in this very important job.

As the Chairman pointed out, we have a myriad of challenges that face this country in the area of transportation and all of the

broad, encompassing areas, with or without the Federal Aviation Agency. I look forward to the opportunity of continuing to work with you and I congratulate you on your selection.

Please know that the lack of attendance of other members is not anything but a sign of the busy schedule of the other senators and the lack of controversy that surrounds your nomination.

Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator McCain. Senator Stevens?

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Well, thank you very much.

Senator FORD. Is that an apple for the teacher?

Senator STEVENS. Are you the teacher?

Senator FORD. No. I thought Ms. Chao might be.

Senator STEVENS. I am delighted to see you today and I know that you are where you are because of the record you have made in other places. We are very pleased that the President has selected you to be the Deputy Secretary of the Department of Transportation.

I have another Committee meeting or I would stay around and ask you questions concerning the terrible disasters going on in my state, but I do not think I need to do that because the Secretary has been up there and I know that you and your past experience will be of great assistance to us so I am delighted that you are here. Thank you very much, Mr. Chairman.

Senator FORD. Thank you, Senator Stevens. Senator Wilson?

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Mr. Chairman, thank you. Your brief but eloquent comments make clear why it is that I have particular pride and enjoy the privilege of introducing Miss Chao to the Committee today, although it is clear that she is well known to you and that her record is.

It is a distinguished record, and one that belies her youth. As the Chairman has pointed out, she has already had two major responsibilities that bear directly on what her responsibilities will be in working with Secretary Skinner as his deputy.

At MarAd she headed the management of an agency of 1,000 people, a budget of $350 million, and a loan guarantee of $4.3 billion, and as Chairman at the Commission she presided over the permanent, independent regulatory agency with jurisdiction of all U.S. ocean-borne commerce and, as you are aware reported directly to the Congress.

In both of those positions she has demonstrated an uncommon ability to manage large Federal agencies and to do so with seemingly little difficulty, no matter how difficult the problems were that she was facing. So I quite agree with the confidence that you have expressed, Mr. Chairman, and it seems clear that you are aware of her distinguished background.

She is an honor graduate of Mount Holyoke and she holds an MBA from Harvard. She was a banker—but I think we can overlook that in the circumstances.

Senator FORD. But I understand that she kept the interest rates down.

Senator WILSON. That is correct, and she has also been an assistant manager for ocean transportation for Foremost Maritime Corporation which, of course, prepared her for her responsibilities at MarAd and at the Commission.

One of the issues nearest and dearest to the hearts of this distinguished Committee has been the very grave issue of the incapacitation of transportation workers by substance abuse. I think this Committee has done particularly outstanding work in that regard.

I was privileged to be a member of this Committee in the last Congress, and I remember sitting here as we listened together to the wrenching testimony of the parents of the children who were killed in that tragic train accident in Maryland two years ago. I know that the Secretary and Miss Chao intend to work with the Committee to ensure that the kind of testing occurs in the future that will prevent any recurrence of such a tragedy.

Mr. Chairman, if I had the leisure to address you at great length and if you had the leisure to listen, I do not know that I could begin to express the enthusiasm that I have for this candidate, but you are spared my efforts to even try.

So I will just say, as you have indicated in your opening remarks, that she is an outstanding candidate and I expect very great things from her. I have the highest confidence in her, and it has been a privilege to introduce her, to recommend her to the President, to Secretary Skinner and now to the Committee in the strongest possible terms.

Senator MCCAIN. May I say to my colleague from California that the only problem I find in her background, which you say we have reviewed, is the state of residence. We from Arizona eagerly await the next earthquake, when she perhaps would consider residency in Arizona.

Senator WILSON. This is one of the quaint, charming things about the junior senator from Arizona. He enjoys this little——

Senator FORD. Well, I have always looked forward to Arizona having ports. This country may be a whole lot better if they do have. I am on his side. You are running for Governor. You are getting ready to leave us, you know, so you think.

Senator WILSON. You can understand why, after a little of this.

Senator FORD. Miss Chao, I hope you do not take our good humor any other way but as good humor, because if you lose your good humor around this place you might as well go home. So we look forward to your testimony and your statement for the Committee and then we will have some questions for you.

The Chairman, Senator Hollings, and Senator Pressler have statements for the record.

[The statements, biographical sketch, and questions follow:]

OPENING STATEMENT BY THE CHAIRMAN

Today the Committee on Commerce, Science and Transportation will hear testimony from Elaine L. Chao, who has been nominated to serve as Deputy Secretary of the Department of Transportation.

We welcome Ms. Chao, whom we have known in her previous capacity as Chairman of the Federal Maritime Commission and as Deputy Administrator of the Maritime Administration.

The Department of Transportation has the responsibility for overseeing the entire national transportation system—air, water and surface. In fact, Secretary Skinner has indicated his intention to develop a national transportation policy, which is greatly needed. We applaud his initiative and eagerly await the results. We expect that Ms. Chao, if confirmed, will be involved in that important task.

The Deputy Secretary is responsible for assisting the Secretary in policy formulation and implementation, as well as attending to many of the daily details of running a large department. This is a challenging position, and I know that Ms. Chao brings good qualifications to the job. If she is confirmed, I hope the relationship with this Committee will continue in the same positive quality and tone already established by Secretary Skinner.

Opening Statement by Senator Pressler

Mr. Chairman, I appreciate the opportunity to address the confirmation of Elaine Chao to be Deputy Secretary of Transportation. President Bush has again made a quality appointment at DOT.

In two weeks, it will be exactly one year since this committee reviewed the nomination of Ms. Chao to be Chairman of the Federal Maritime Commission. Her impressive performance in that capacity makes me confident that she will be an able Deputy Secretary.

I strongly support this nomination and look forward to working with you, Ms. Chao, at DOT.

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KENTUCKY
J. JAMES EXON, NEBRASKA
ALBERT GORE, JR., TENNESSEE
JOHN D. ROCKEFELLER IV, WEST VIRGINIA
LLOYD BENTSEN, TEXAS
JOHN F. KERRY, MASSACHUSETTS
JOHN B. BREAUX, LOUISIANA
RICHARD H. BRYAN, NEVADA
CHARLES S. ROBB, VIRGINIA
JOHN C. DANFORTH, MISSOURI
BOB PACKWOOD, OREGON
LARRY PRESSLER, SOUTH DAKOTA
TED STEVENS, ALASKA
ROBERT W. KASTEN, JR., WISCONSIN
JOHN MCCAIN, ARIZONA
CONRAD BURNS, MONTANA
SLADE GORTON, WASHINGTON
TRENT LOTT, MISSISSIPPI
RALPH B. EVERETT, CHIEF COUNSEL AND STAFF DIRECTOR
WALTER B. MCCORMICK, JR., MINORITY CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: CHAO (Last) ELAINE (First) _____ (Other)

Address: 2500 VIRGINIA AVE., N.W. (Current residence)
WASHINGTON, D.C. 20037

FEDERAL MARITIME COMMISSION
1100 L ST., N.W. (Business)
WASHINGTON, D.C. 20573

2. Position to which nominated: DEPUTY SECRETARY DEPARTMENT OF TRANSPORTATION
Date of nomination: 4/4/89

3. Date of birth: 3 (month) 26 (day) 53 (year)
Place of birth: TAIWAN

4. Marital status: SINGLE
Full name of Spouse: _____

5. Names and ages of children: _____

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
HARVARD BUSINESS SCHOOL	1977-79	M.B.A.	1979
M.I.T.	SPRING 1979	CROSS REGISTPATION	
MOUNT HOLYOKE COLLEGE	1971-1975	A.B.	1975
DARTMOUTH COLLEGE	1974	12-COLLEGE EXCHANGE	
COLUMBIA UNIVERSITY	1972	SUMMER SCHOOL	

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1988	PRESENT	FEDERAL MARITIME COMMISSION	1100 L ST., NW WASHINGTON, D.C.	CHAIRMAN
1986	1988	DEPT. OF TRANSPORTATION	400 7TH ST., SW WASHINGTON, D.C.	DEPUTY MARITIME ADMINISTRATOR
1984	1986	BANKAMERICA CAPITAL MARKETS GROUP	555 CALIFORNIA ST. S.F., CA	VICE PRESIDENT SYNDICATIONS
1983	1984	OFFICE OF POLICY DEVELOPMENT	THE WHITE HOUSE	WHITE HOUSE FELLOW
1979	1983	CITICORP, N.A.	399 PARK AVE., NYC	COMMERCIAL BANKER
SUMMER	1978	GULF OIL CORP.	PITTSBURGH, PA	PLANNING ASSOCIATE
1975	1977	FOREMOST MARITIME CORPORATION	50 BROAD ST., NYC	STAFF

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1988-PRESENT CHAIRMAN, FEDERAL MARITIME COMMISSION

1986-1988 DEPUTY MARITIME ADMINISTRATOR, DEPT. OF TRANSPORTATION

1983-1984 WHITE HOUSE FELLOW, OFFICE OF POLICY DEVELOPMENT, THE WHITE HOUSE

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

MEMBER, NATIONAL REPUBLICAN PARTY, REGISTERED IN CALIFORNIA

VOLUNTEER, REAGAN-BUSH '84 - OCTOBER, NOVEMBER 1984

CONTRIBUTIONS: P. WILSON FOR SENATE - 1988
A. D'AMATO FOR SENATE - 1988
C. COX FOR CONGRESS - 1988
D. ROHRABACHER FOR CONGRESS - 1988
R. EDDY FOR SENATE - 1986
REPUBLICAN NATIONAL COMMITTEE - 1986, 1987, 1988

NATIONAL HONORARY CHAIRMAN, ASIAN-AMERICAN FOR BUSH-QUAYLE '88

EXECUTIVE COMMITTEE, WOMEN FOR BUSH-QUAYLE '88

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Harvard Alumni Association, Executive Board, Harvard University, Cambridge, Ma., 1987-1990, Elected Director.

Harvard Business School Alumni council, Executive Committee, Harvard Business School, Boston, Ma. 1987-1990, Director.

National Maritime Hall of Fame Selection Committee, Member. 1986-Present.

National Academy of Sciences, National Research Council, Transportation Research Board, Washington, D.C., Executive Task Force Member, 1986

Harvard Business School Club of Greater of New York, 1979-1987.

Board of Directors, Elected Director, 1983-1986.

Senior Vice President of Programs, 1983.

Vice President, 1981-1983.

Chairman of the Applicant Relations Committee, 1981-1983.

Harvard Advisory Group to the Brooklyn Navy Yard (a community project of the Harvard Business School Club of Greater New York), Volunteer Consultant, 1982-1983.

Harvard Business School Club of Washington, Member 1983-1984, 1988-1989.

Harvard Business School Club of Northern California, Member, 1986.

Harvard Club of New York City, Member, 1979-1988.

Organization of Chinese-Americans, Inc., Washington, D.C. Chapter, Member, 1987-1988, 1988-1989.

World Affairs Council, San Francisco, Ca., Appointed Member, 1985-1986.

Executive Women in Government, Member 1987-1989.

Independent Agencies Women Group, 1988.

11. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Selected as One of Ten Outstanding Young Women of America for 1987.

The Federal Asian Pacific American Council Award. 1987.

PHI TAU PHI Scholastic Honor Society of America. Elected Member. 1987.

Young Achiever Award, National Council of Women, U.S.A. 1986.

Champion of Excellence Award, Organization of Chinese-American, Inc. 1986.

Dynamic Achievers Award, Organization of Chinese-Americans of Westchester, Inc. 1984.

Mary Lyon Award to the Outstanding Young Alumnae, Mount Holyoke College. 1984.

Member, the President's Regional Linkage TAsk Force, Council on Foreign Relations, Inc. 1983.

Member, Minority Recruitment Task Force, Council on Foreign Relations, Inc. 1988.

Elected Class Marshal and Class Secretary, Harvard Business School Class of 1979.

Selected as an Outstanding Young Women of America of 1979.

PREHEARING QUESTIONS OF THE COMMITTEE

Qualifications/General

QUESTION 1: How has your background and experience at the Department of Transportation and the Federal Maritime Commission prepared you to be Deputy Secretary of Transportation?

RESPONSE:

My experience as Deputy Administrator of the Maritime Administration and as Chairman of the Federal Maritime Commission has provided in-depth, valuable exposure to the issues that confront U.S. transportation today and the process for resolving them successfully. These positions both involved policy and management challenges very similar to those confronting Secretary Skinner, and the Deputy Secretary will have a primary responsibility for assisting the Secretary in their resolution. Furthermore, my time spent in achieving agency budget objectives for both MarAd and the FMC, and in working on a day-by-day basis with Congressional committees on maritime transportation policy, provides me with a solid basis for working with Congress to achieve our transportation objectives.

QUESTION 2: What do you and Secretary Skinner believe to be your role as Deputy? What do you envision as your primary function?

RESPONSE:

Secretary Skinner and I have had extensive discussions about the role the Deputy plays at DOT. The Deputy Secretary ensures that the day-to-day management of the Department contributes to the Secretary's ability to achieve broader policy goals. The Deputy is also integrally involved in the development of policy, as it is considered by various offices within DOT. The Deputy is also involved in the implementation of new programs, oversight of significant contracting decisions as Source Selection Official, achievement of overall budget objectives, and numerous other significant agency actions. I would expect to fill this role and otherwise act on behalf of the Secretary as he deems appropriate.

QUESTION 3: The Department of Transportation is a multi-modal department with a budget of $28 billion and over 100,000 personnel. What do you believe are the top priorities of the Department?

RESPONSE:

Secretary Skinner has established as his first priority, in consultation with the Congress, the public, industry, and the President, the development of a national transportation policy that both enhances our national security and strengthens our economy. I agree that a national transportation policy will permit us to weigh the competing transportation needs and to enable us to determine the balance needed to make the best use of our resources. A coherent policy will enable industry to provide efficient, competitive delivery of goods and services -- improving our international competitiveness -- while providing the greatest possible level of safety. I also agree with two specific objectives the Secretary established at his confirmation hearings: countering international terrorism in transportation, and eliminating the use of drugs in the nation's transportation system.

QUESTION 4: Where do you think the greatest difficulties lie for the Department over the next several years?

RESPONSE:

My initial view is that the greatest challenge to the Department will lie in the area of adequate funding for competing transportation needs. While the Administration does not believe the federal government should or can be viewed as the only appropriate source of funding for each of the modes of transportation, it does strongly believe in adequate financing of such critical federal responsibilities as aviation safety programs and Coast Guard drug interdiction, safety, and environmental response missions. Also, the Department faces the challenge of balancing the need for a vital, growing transportation sector with legitimate calls for environmental protection, dramatically brought to our attention by the Exxon Valdez oil spill in Alaska.

Drug Testing

QUESTION 5: Last year, the Department issued regulations establishing drug testing requirements for the safety-sensitive transportation employees. The rules did not address alcohol testing. What is your view of mandating testing for alcohol abuse by these transportation employees? Would you support random testing?

RESPONSE:

As Chairman of the Federal Maritime Commission, I kept fully informed on the DOT rulemakings as they affected the maritime industry. Transportation, whether passengers or cargo are involved, must be drug-free. For this reason, I believe that random drug testing is justified when safety-sensitive jobs are involved, where privacy and other individual rights are preserved, and when other testing techniques are inadequate. These issues are all before the courts now, in the context of the DOT final rules. I also have great concern about the dangers of alcohol abuse in the transportation industry. The Secretary has indicated an interest in reviewing the need for stricter rules in that area. Somewhat different issues are involved, such as the use of blood or breath testing in place of urine testing and the fact that off-duty use of alcohol is legal in many circumstances. Given these factual differences, I believe that a position on the need for more alcohol testing should await further review of these issues.

Airline Deregulation

QUESTION 6: The Department and the General Accounting Office are currently conducting extensive evaluations of airline concentration. Additionally, there are increasing concerns that existing barriers to entry may be limiting competition in major markets. What role do you see the Federal government taking to ensure competitive, quality air service? What are some specific concerns you have about the state of the airline industry today, and what would you suggest be done?

RESPONSE:

Secretary Skinner has directed that a comprehensive analysis be done by the Department's staff of the numerous issues involved in maintaining airline competition. The Department's study will cover all aspects of the current competitive situation, including market structure, pricing behavior, capacity limitations of the airports and airways, computer reservation systems issues, and the efficient use of overall system capacity. The Airline Deregulation Act of 1978 has been beneficial to the traveling public overall, and the important gains achieved over the past 10 years should not be lost to undue concentration.

Security

QUESTION 7: Few would argue that we must do more to ensure aviation security. However, the question of who pays for enhanced security measures will be a major public policy issue. What are your views on this question?

RESPONSE:

This is a major policy question, and one to which DOT has devoted a good deal of attention. Historically, the air carriers have established their international route structures and provided the security needed. With a single exception in the 1970's, federal law has always conformed to this model, with the federal government establishing minimum criteria where needed, but with the carriers executing the programs. With the recent development of new detection hardware, DOT reviewed this policy and decided that the costs were well within the range that could be reasonably met by the carriers in line with current security efforts. The federal government will play a major role in negotiating with foreign governments for the installation of the new technology. I agree with this approach.

FAA Structure

QUESTION 8: Last session, this Committee voted overwhelmingly for a bill which would remove the Federal Aviation Administration (FAA) from the Department. How do you regard this concept? What do you believe should be the relationship between the Administrator, who has operational and regulatory responsibility for air safety, and the Department of Transportation?

RESPONSE:

I recognize this to be a subject that involves many complex issues, and I would expect to develop a more in-depth familiarity with their interrelationship in the coming months. I know the Department stands ready to work with the Committee to resolve these important issues facing the FAA. Nonetheless, it is my view today that the FAA must have the strongest possible representation at the highest levels of government, and that means having the DOT Secretary as leader and advocate for FAA issues in the halls of government. There must be one leader charged with the responsibility to insure the balance and integration of the nation's total transportation policy. The Secretary has also stressed how important good working relations with the FAA will be to addressing these organizational questions. I look forward to assisting him in that effort.

Airport Capacity/Federal Role

QUESTION 9: Everyone decries the lack of airport capacity or "concrete" to permit expansion of the system and greater efficiency and economy for the flying public. Attempts to build new runways invariably bump up against local concerns with noise and environmental issues. What do you see as the federal role? What alternatives to "concrete" do you see to expand capacity?

RESPONSE:

The Department has recognized this problem as a major constraint to air commerce growth and forecasts a more severe situation as demand for air transportation grows and airport proprietors impose new or more stringent restrictions on aircraft operations. The Secretary has suggested that the problem might best be addressed through development of a comprehensive airport capacity/access policy. Such a policy would focus on ensuring full utilization of existing airport capacity, construction of additional capacity, and safeguarding the environment. In addition, continued progress on the NAS Plan will permit the most efficient possible utilization of existing airway and airport capacity.

Airport and Airway Trust Fund

QUESTION 10: The surplus in the user-funded aviation trust fund continues to grow and so does the pressure to free the funds for their intended use. Past administrations have not only asked for lower than authorized levels, but also have struggled to keep the trust fund and its billions on the unified budget. Requirements for airport grants are increasing and the implementation of the NAS Plan will require large expenditures in the next several years. What solutions do you propose to this dilemma?

RESPONSE:

Aviation users are paying into the Trust Fund and therefore the Fund ought to be used to fund critical aviation needs. The Department is actively reviewing the situation. I would work with Secretary Skinner and the Congress to bring about a constructive resolution to this complex issue.

Motor Carrier Deregulation

QUESTION 11: What are your views of proposals to further deregulate the motor carrier industry and sunset the Interstate Commerce Commission (ICC)?

RESPONSE:

Secretary Skinner has promised the Committee that he would review this question closely before considering any further deregulatory legislation for the trucking industry or sunset of the ICC. I look forward to being closely involved in that review.

ICC Sunset

QUESTION 12: As you know, proposals to sunset the ICC are contingent on economic deregulation of the motor carrier industry and a transfer of the ICC's residual rail authority to the Department of Transportation and the Justice Department. Do you feel that a DOT headed by a Secretary, Deputy Secretary and an Administrator for rail functions would be capable of resolving questions with regard to the fairness of rail rates, proposals for competitive access, and petitions for rail line abandonments with the same degree of independence as five voting members on a commission such as the ICC?

RESPONSE:

I believe this is achievable for two basic reasons. Most of the ICC staff involved in these activities would, in all likelihood, transfer to DOT, bringing their expertise. Formal decision-making processes could be used to keep the basis for a decision "on the record" for all to see. Also, the DOT decisions would be open to scrutiny by all parties, and anything less than true objectivity would no doubt be pointed out. The Department is already experienced in decision-making of this type. For example, DOT decisions regarding international aviation route awards, a role inherited from the former Civil Aeronautics Board, have generally been viewed as objective and made on the basis of the written record. . .

Hazardous Materials Transportation

QUESTION 13: What do you believe to be the principal unmet need or needs in the area of hazardous materials transportation and what proposals would you offer in this area?

RESPONSE:

The Department has not yet determined what legislative recommendations to transmit to Congress this year regarding the Hazardous Materials Transportation Act. An active review is underway. Clearly, this is a high-priority area.

Motor Carrier Safety

QUESTION 14: On the subject of motor carrier safety, generally what do you believe to be the area or areas of greatest need and what initiatives might you be expected to favor to address these needs?

RESPONSE:

Significant motor carrier safety legislation was enacted in 1984, 1986, and last year as a part of the Omnibus Drug Bill. As a result, the FHWA's Motor Carrier Safety Bureau's responsibilities have been upgraded and expanded, and I understand that numerous important motor carrier safety projects are underway. These include the single commercial driver's license requirement, safety fitness ratings, and the Motor Carrier Safety Assistance Program, which provides $60 million annually for state safety activities. Of course, FHWA recently issued the rules for mandatory random drug testing, which are now being challenged in court. Without foreclosing any options, I would say that the FHWA probably could use some time to consolidate the gains made under past legislation before dealing with more.

NHTSA

QUESTION 15: The Department of Transportation is charged with administering corporate average fuel economy, or CAFE, standards, which are often discussed in the context of global climate change. If CAFE standards are high, the nation's vehicle fleet is more fuel efficient and its contribution to CO2 emissions and global warming is reduced. Previous DOT officials have stated opposition to the existence of any CAFE standards. Do you favor the continued imposition of CAFE standards by the federal government on vehicle manufacturers?

RESPONSE:

The question of whether statutory fuel economy standards should play a role in addressing the problem of global warming is clearly an important one and should not be answered without rigorous analysis of the issues. Many complex, changing factors are involved, such as economic practicability, technological feasibility, possible trade-offs regarding safety, comfort, passenger-carrying capacity, and performance, impacts on domestic employment, and effects on the U.S. economy, as well as environmental effects. I expect the Administration will be considering these issues in the near future.

QUESTION 16: There is currently pending before DOT a request to reduce passenger car CAFE standards for model year 1990, and Secretary Skinner has indicated his intention to participate in that decision. What do you expect to be your involvement in that process?

RESPONSE:

I would participate in the decision on this matter, like any other, to the extent that the Secretary believed it to be appropriate.

QUESTION 17: When DOT has granted similar petitions regarding CAFE in the past, it placed significant emphasis on the asserted needs of the U.S. automobile industry to maintain its competitive position in the world market. Do you agree with that decision? What priority do you believe should be given to the economic position of the automobile industry in determining the level of CAFE standards?

RESPONSE:

The statutory requirement in setting annual CAFE standards is that they be the "maximum feasible" level, taking into account four factors. One of those factors is economic practicability. I am sure that the National Highway Traffic Safety Administration adhered to the statutory intent in reaching its recommendations and decision for each model year. Like Secretary Skinner, I believe the ability of our industries to compete in a global economy is critical and should not be ignored. At the same time, our dependence on imported oil and the need to conserve energy is another very important statutory consideration.

QUESTION 18: What is your view of the relationship between fuel efficiency and avoidance of oil spills such as that which occurred following the grounding of the EXXON Valdez? Do you believe increased fuel efficiency is an appropriate means of reducing the risk of future oil spills?

RESPONSE:

President Bush has called the Valdez spill "one of the greatest environmental tragedies in American history". Secretary Skinner shares that view and is now in charge of the federal effort to restore the Prince William Sound. He has stated that the contingency plans were over-optimistic and simply didn't work. His job, with EPA Administrator Reilly, is to take steps to prevent a recurrence of this type. In his testimony April 7 before this Committee, he also stressed that this is not the time to "throw up our hands" and adopt the premise that oil cannot be safely transported. Without speaking for the Secretary, I would say that the solution lies in direct action to attain better planning for energy transportation rather than just a change in fuel economy rules.

QUESTION 19: On at least two occasions during the last Congress DOT declined to provide congressional oversight committees with documents reflecting staff recommendations on important decisions -- vehicle rollover, and reduction in CAFE standards. If you are confirmed, what will be your position on the availability of DOT staff recommendations to congressional committees who believe such documents are necessary to the performance of their oversight function?

RESPONSE:

I believe that every effort should be made to cooperate with the committees of Congress, while preserving the ability of the

Executive Branch to carry out its Constitutional and statutory duties and responsibilities. There is a need to preserve the ability of agency officials to communicate candidly with one another in internal documents. By protecting such communications from disclosure, the Department encourages differing perspectives and provides broad opportunities for exchanging viewpoints before decisions are made. However, I would do everything possible to provide Congress with appropriate information when requested to do so.

QUESTION 20: On April 6, 1981, Vice-President Bush announced 34 DOT regulations the Reagan Administration had targeted for either rescission, revision, or redrafting in an effort to assist the economic position of the automobile industry. Fifteen of those regulations related to vehicle safety and the remainder dealt with emissions and fuel economy. Do you have any similar plans? If so, please list the actions that will be recommended for this purpose.

RESPONSE:

I have no similar plans, but I would expect to participate in the regulatory activities conducted by the Department.

QUESTION 21: Do you believe that either the marketplace or the self-regulation of the automobile industry can be sufficient to insure the manufacture of safer vehicles? If so, can you cite some relevant examples?

RESPONSE:

If vehicles already meet an acceptable level of safety on a particular aspect of vehicle performance without being required to do so by regulation, I believe the Department should devote its resources to other issues rather than engage in rulemaking simply to affirm the existing level of safety. The National Traffic and Motor Vehicle Safety Act sets forth criteria for rulemaking. If the Department, in applying these criteria, finds that there is a need to establish, amend, or revoke a standard, it should do so accordingly.

STATEMENT OF ELAINE L. CHAO

Ms. CHAO. Thank you, Mr. Chairman.

Mr. Chairman, Members of the Committee, Senator Wilson. I say with great sincerity, thank you for the opportunity to be with you here today. I very much appreciate your working this hearing into your busy schedule and I will keep my statement brief.

Before I begin I also want to express my appreciation to Senator Wilson again, who has taken the time from his busy schedule to accompany me to this confirmation hearing. I also saw in the audience two commissioners and several staff members of the Federal Maritime Commission. It has been a joy for me to serve with them at the FMC.

I am honored to be here today as President George Bush's nominee for Deputy Secretary of Transportation and to have the opportunity to work with Secretary Skinner on the important transportation issues facing this Nation.

I appeared before this Committee in April of last year as President Reagan's nominee for Chairman of the Federal Maritime Commission. I appreciated the confidence expressed by the Committee in recommending that my nomination for that position be confirmed. My year as Chairman of the Federal Maritime Commission has been a very valuable one. It has provided me with in-depth experience in dealing with the transportation industry and difficult regulatory issues as well.

I know that I share with Secretary Skinner the philosophy that an appointee to a leadership position has responsibility to step forward and initiate action to deal with the issues that confront a Department, and not simply preside over a process put in place by predecessors.

As you know, I am familiar with the Department of Transportation, having served as Deputy Administrator for the Maritime Administration from 1986 to 1988. The Department includes nine different administrations, most of them overseen by this Committee. You are well aware of the complexity of the issues dealt with in those Agencies and of the importance of moving ahead on them.

In particular, I would cite the continuing effort to maintain and enhance international aviation security; to further the Coast Guard's drug interdiction efforts and protection of the marine environment; to preserve the benefits of domestic airline deregulation and also to ensure a drug-free workplace and transportation system. Secretary Skinner has insisted that more be done in these areas and others by the Department and I plan to participate fully in this process.

Secretary Skinner has also launched the effort to assess where we are in transportation and what the future transportation policy of this Nation should be. This is a vital undertaking. The Deputy Secretary of Transportation will play a central role in drawing together the major elements of this work and I look forward to that.

Before closing, I would stress my belief in the value of public service, in the importance of the transportation issues facing us as a Nation and of the need to gather a leadership team under Secretary Skinner to initiate the policy and decisionmaking process with Congress and the public to achieve our common goals.

I look forward to working with President Bush and his new Administration along with Secretary Skinner and the Congress as we pursue policies that best meet this country's transportation needs.

I want to assure you that with your approval I will do my utmost to fulfill my new responsibilities. As I conclude, I would also like to add a final remark. That is, to note the valuable advice that I received from the staff of this Committee during this whole process. I am very appreciative of their efforts.

So again, thank you for this opportunity to be here this afternoon and I look forward to answering any questions you may have.

Senator FORD. Thank you, Miss Chao and our questions, I hope, will be brief. I know you would not be here today if Secretary Skinner were not enthusiastic about your nomination in helping him develop the National Transportation policy. Do you have any one area to which you would particularly devote your attention as Deputy Secretary?

Ms. CHAO. Secretary Skinner and I have had extensive discussions as to the role of the Deputy. Traditionally, the Deputy Secretary is the one who ensures the smooth running on a day-to-day basis of the Agency and makes sure that the Department as a whole contributes to the Secretary's overall policy goals.

The Deputy Secretary is also very much involved in the development of policy as it is considered by the various offices within DOT, oversight of significant contracting responsibilities, overall budget planning and a number of other significant Agency activities.

I expect to be involved in all of these issues and otherwise to act in the Secretary's stead as he deems appropriate.

Senator FORD. We have a vote and Senator Exon is going and we will come back, so we will not keep you here longer than necessary. Senator McCain will not be able to come back and he has a couple of points he would like to make, so I want to yield to him at this time.

Senator MCCAIN. Thank you very much. Thank you, Mr. Chairman, for your courtesy. I appreciate it. Just two quick points Miss Chao that I would like to make to you. I am very concerned about the failure of a rulemaking on the slot situation. I am sure you have not had time to get into that.

I am very concerned about the ability of airlines to remain competitive and I am concerned about the de facto reregulation that seems to be occurring in the airline industry. I think we have to do something about the slot situation and a rulemaking on that is overdue.

The second point I would like to raise is that America West has sought permission to fly to Australia. I would appreciate it if you would expedite that decisionmaking process. Finally, I hope you will get into this whole issue that Chairman Ford and I am involved in so heavily and that is a not-so-gradual reregulation of the airline industry due to a variety of very complex and intricate factors, the latest display of which was when Eastern Airlines went on strike. Every single airline that flies their routes raised their fares.

Studies of hubs that are dominated by one airline or another show that the fares go up. Those of us who supported deregulation, which is certainly a majority of Congress and the Carter, Reagan

and now Bush Administrations, have got to make sure that we do provide real deregulation and not de facto reregulation.

We are talking about millions and millions of Americans who fly, and more of them fly every day. I look forward to working with you on this very difficult issue. I know it will be the subject of hearings that we on the Aviation Subcommittee will be holding in the future.

Thank you, Mr. Chairman.

Senator FORD. Miss Chao we did not make it and so the five lights are on. If I am in town I should not miss a vote and so if you will forgive us for a few moments we will stand in recess until I can run over and vote and come back.

[Recess.]

Senator EXON. The Subcommittee will please come to order. We are moving back and forth as fast as we can, Miss Chao and to save and conserve your time we will move ahead.

Ms. CHAO. Thank you.

Senator EXON. Thank you very much for being here today and I listened to your opening statement and I appreciate very much that you dropped by to visit with me on a courtesy call before you came over here. I enthusiastically support your nomination. I think it is a good one.

I have a question or two for the record. Maybe as a possible follow up to some of the things that we discussed when you were in to see me. You are taking an extremely important position in the new Administration. You have all the credentials to carry that out with the dedication and zest that you have shown previously and your background makes you highly qualified for this matter.

I think everything is good news, except the next time that you come up for confirmation before the Commerce Committee I suggest that you have someone, despite being a very good friend, was one who left—abandoned the Commerce Committee indeed—did the Senator from California.

But despite that and with that singular objection I think we are going to muster the votes to pass you out of here and I just wanted to tell you that when I see someone with your background and experience coming into government it renews our faith that there are people who still want to do a job out there. So I am delighted that you are here today and I predict that we are going to pass you out promptly.

The last Administration was not kinder and gentler to rural America. In fact, the last Administration tried to terminate a whole series of programs that you are familiar with. The essential air service program, the Amtrak program was attempted to be eliminated. The last Administration did eliminate the Local Rail Service Assistance Programs.

I am pleased to say that thus far we have at least had a measure of understanding on all of those programs with the possible exception of the Local Rail Service Assistance Program. In this area I do not believe that rural America faired very well under the last Administration. I am hopeful that this Administration will be a different proposition.

Have you had any discussions so far with the new Secretary with regard to his overall attitude towards rural America and the trans-

portation needs out there and in your view, can we expect a little better understanding from the new Secretary than we had from the last?

Ms. CHAO. As I mentioned in my statement, I share with Secretary Skinner the philosophy that an appointee to a new position has the responsibility to step forward and initiate action to deal with problems that confront the Department.

This Secretary has been very refreshing in that he asked for an extensive review of major programs upon his arrival at the Department. Naturally, some of the options considered in this review process are limited by the fiscal constraints and budgetary decisions that have already been sent by the Administration to the Hill, but I think that you will find this Secretary, and certainly this Deputy Secretary, open to considering a wide array of approaches in dealing with the issues that come before the Department.

Senator EXON. I can only speak for myself, but I simply say that at least we have the opportunity to sit down and discuss these things with you, the pros and cons on them. You know, we are not asking you to make advance commitments. All that we expect is some consideration for those of us over here who may have a different point of view to some extent as we move forward.

My only other question, Mr. Chairman, has to do with what Miss Chao is primarily interested in as far as being the key member of the transportation team of the new Administration. Obviously, you have lots of experience in the maritime part of your responsibilities. Are there any other particular matters in the transportation industry, of which there are many and varied, that you have a particular interest in or would like to take a leadership role in as a key assistant to the Secretary?

Ms. CHAO. Senator, as you have noted, my background is primarily in the maritime sector and I look forward to getting involved in the other modes of transportation within the Department as I go forward. I also have extensive private sector experience which I think gives me a unique perspective on how the government and the private sector can best work together.

I believe that the Deputy Secretary, with all of his or her responsibility, must work closely with the Secretary to help him carry out his policy objectives. I look forward to working with Secretary Skinner on his priorities and other matters as he deems appropriate.

Senator EXON. Thank you, Miss Chao. Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator Exon. Miss Chao, let me ask just two or three questions. We all are a little bit parochial, but I think what Subcommittees we are assigned to gives us some interest to pursue.

Secretary Skinner has established a number of task forces. I hope they all work. Every time we get any trouble around here we appoint another Committee to look after it. These task forces are to review a range of problems including FAA reform and analysis of the NAS plan. As a result of your participation, I think, in these task forces, what ideas do you have for improving the procurement process?

Ms. CHAO. You are right, Senator, I have been involved in task forces. Again, I think the establishment of these task forces is a refreshing reflection of the Secretary's willingness to review the decisions that preceded him.

As for your specific question about procurement, I would have to say at this point that while we are looking at some procurement issues in the Department I am not in a position to be able to comment specifically on what I would do to improve them. But please be assured that I know your concern in this area. I note that, with FAA in particular, that has been of great concern to us as well and the department is working to see what improvements in the process could and should be made.

Senator FORD. Do you think by what you have seen to this point, that one of two things, or both, could happen. You could expedite the procedure, save money, or both?

Ms. CHAO. Ideally, it would be wonderful to be able to accomplish both objectives. However, in order to accomplish both objectives, there will have to be some compromises, but in terms of—you did not mention this but in terms of expediting the decisions on these task forces——

Senator FORD. Well, I expect you and Secretary Skinner to do that.

Ms. CHAO. Yes, I assure you we intend to do that. As I was saying, ensuring the efficiency of the process and the integrity of the process are often conflicting goals.

Senator FORD. Secretary Skinner has suggested the development of a comprehensive airport capacity access policy. Can you be more specific why the department proposes additional legislation to implement this policy?

Ms. CHAO. The department has recognized this problem with airport capacity, and the Secretary has suggested that the problem might best be addressed through development of a comprehensive airport capacity access policy.

I think such a policy would necessarily have to focus on ensuring full utilization of existing airport capacity, construction of additional capacity and, of course, safeguarding the environment as well.

In addition, I think progress on the NAS Plan will promote the most efficient possible utilization of existing airway and also airport capacity.

Senator FORD. Do you have any confidence in moving along on the NAS Plans?

Ms. CHAO. The department is in the process of evaluating that. We are reevaluating some of the numbers that are associated with the NAS Plan, and I am confident that we will have something to report to the Congress soon.

Senator FORD. Soon?

Ms. CHAO. Yes, sir.

Senator FORD. In the Airport Airway Safety Capacity Expansion Act of 1987 the committee authorized levels for airport grants that were sufficient to meet the needs at airports large and small.

The department has not requested to the full authorized levels and now is proposing to change the grants formula to reduce entitlement funds and increase discretionary levels.

What do you expect or hope will be the result of such a change and why not just request the authorized levels?

Ms. CHAO. Senator, I understand that the department is in the process of reevaluating the grant issue. At this point, if I could, I would like to submit an answer for the record.

Senator FORD. Well, I have discussed this with the Secretary and with others, and we are very hopeful that he will go ahead and ask for the supplemental. I do not think that it costs any more. It does not hurt the budget process any. So, I would be hopeful that we could.

One question. Since the Secretary will recuse himself from any decision as it relates to the Alamo case—I understand you probably know about that—that falls on your shoulders, then, does it not?

Ms. CHAO. It certainly does, sir.

Senator FORD. Do you have any preconceived notions about that?

Ms. CHAO. You will be pleased to hear that I do not.

Senator FORD. I am not sure I am pleased.

Ms. CHAO. I am not a lawyer either, so I have no preconceived notion.

Senator FORD. Well, maybe you and I will get along. I am one of the few nonlawyers around this place, you know, and I have a hard time with words beyond four letters. You see, I am bilingual, bad English and Southern, so we may get along.

This subject is one of great interest to me. We have been rolled on that one back and forth. It has been in and out of courts. I have got an idea that fair play is probably the best way and the airport managers ought to have an opportunity to run the airport rather than for us to tell them how because they are responsible for the bond issue, for paying it off, and responsible to the city.

So, I hope that when the time comes if you have to make that decision that we will have an opportunity to talk nonlawyer to nonlawyer.

Ms. CHAO. I know of your concerns, Senator. And I look forward to that.

Senator FORD. Well, I wanted to express that to you now. I will have several questions for you in writing, and there will be, I imagine, several other Senators that will submit some questions to you in writing.

All of your papers are in order. The reports will be examined in full by the end of tomorrow. We see no problems in that and in talking to Chairman Hollings when coming over from the last vote, he expects to expedite the vote on your nomination. We do look forward to confirming you at an early date and look forward to working with you.

As I said earlier, I am impressed with Secretary Skinner. I like him. He is straightforward. He does not mind talking to you, and he talks straight, and that is the only way I know how, and I enjoy that working arrangement.

Ms. CHAO. Thank you very much, Senator. I will certainly convey those sentiments to him.

Senator FORD. Well, I am not trying to ingratiate myself to him because he knows that if I do not like it, I will tell him and he will tell me the same thing, and we walk off friends. We may not agree, but we are not disagreeable.

This hearing is concluded.

Ms. CHAO. Thank you, Senator.

[Whereupon, at 2:42 p.m. the committee adjourned, subject to the call of the Chair.]

[The following information was subsequently received for the record:]

POSTHEARING QUESTIONS OF SENATOR FORD

Aviation

QUESTION 1: When do you expect to reach conclusions or make recommendations as a result of the various task forces - specifically, those on FAA reform, the airline concentration issue, the NAS Plan, and the capacity access program?

RESPONSE:

One of the Secretary's top priorities is the development of a national transportation policy covering all transportation sectors. The National Transportation Policy Task Force will set forth the goals, objectives, principles, and criteria which will help guide legislative and funding decisions that must be made in order to meet the Nation's aviation and other transportation needs. A detailed work program for this project is being developed. The total effort should take about 12 months.

The work of the NAS Plan Task Force is nearly complete. The Department is in the process of reviewing the draft final report, and the Secretary and the FAA should be in a position to announce the conclusions and recommendations from this effort in the very near future.

The Airline Competition Task Force is undertaking a series of studies to examine industry structures and airline routes, pricing, capacity of the Nation's airports and air traffic control system, marketing of air service, and the role of regional air carriers and international companies. The studies assess the state of competition in the airline industry today and identify potential policy options for encouraging more competition. It is intended to establish and institutionalize the processes and analytic underpinnings used to monitor the future competitiveness of the airline industry and provide input to Secretary Skinner's strategic plan for transportation. Individual work projects are under way, with reports to the Secretary projected by mid-summer and with the full project scheduled for completion on December 1, 1989.

The Aviation Systems Capacity Task Force will address aviation noise and airport capacity issues to identify policy options for continuing improvements of the noise environment and for removing barriers to expansion of airport capacity. A timetable for action is under development.

There is no specifically designated task force to address the issues of FAA organization. However, the Department would like to work with Congress and the aviation industry to deal constructively with this issue.

QUESTION 2: In one of your pre-hearing responses on airport security, you commented that the costs of new detection hardware were well within the range that could reasonably be met by carriers. You also indicated that the Department had given this matter a great deal of attention. What were some of the other funding alternatives considered? Has the Department developed any estimates?

RESPONSE:

The Department considered various funding alternatives to provide for the installation and use of explosive detection systems. It believes, however, that the airlines, who would own and operate the explosive detection equipment, should bear the cost of security devices like the Thermal Neutron Analysis (TNA) systems as part of the cost of offering flights on a commercial basis.

The Department believes air travelers would be willing to bear the additional cost to ensure their safe flight. The purchase price of a TNA system is estimated at about $1 million. Targeting installation of 100 units at the busiest airports would cost all passengers, over one year, an extra 20 cents per airline ticket, assuming passengers on all U.S. carriers pay the increase.

I believe it is reasonable that the U.S. Government carry the development cost for new technology, especially for high cost, high risk research that industry might not be able to justify doing on its own. On the other hand, once successful development is completed, the cost of security measures should be borne by those whom the measures are intended to protect -- the airlines and their passengers.

Maritime

QUESTION 3: Since you have had considerable experiences in the maritime area, what advice will you give the Secretary on addressing the revitalization of the U.S. maritime industry and merchant marine?

RESPONSE:

I support the Secretary's statement that there has not been enough emphasis on the importance that a strong merchant marine plays in national defense. The defense requirements are very real, both in terms of the need for ships for sealift and the requirement for shipyard capacity. I will advise the Secretary that the Department should ensure that the Nation's merchant fleet and shipyard industry are adequate to meet national security requirements.

As a part of this effort, I will advise the Secretary that as soon as we have a clear statement of the current and projected shortfalls in ships, shipyards and manpower, the Department should take an active role in outlining the appropriate steps to be taken in correcting the shortfalls that may exist.

NHTSA

QUESTION 4: What is your view of the need for increases in current levels of fuel efficiency to protect against global climate change?

RESPONSE:

On matters of the national economy and the world environment, there are many issues that must be considered beyond the narrow question of the CAFE standards. Your question thus raises a number of complex issues. I expect to participate in the discussion of these issues along with the Environmental Protection Agency, the Department of Energy and other Departments and agencies. I certainly support the goal of improving the fuel efficiency of the Nation's automobile fleet, and understand that the manufacturers have made significant progress in that area over the past 10 years. The 1990 standards will soon be announced.

QUESTION 5: Do you view the economic needs of the automobile industry as inconsistent with vehicle safety initiatives or fuel economy requirements?

RESPONSE:

I believe that a combination of Federal standards and private initiatives should help to achieve the greatest gains in vehicle safety and in ways to enhance energy conservation. The fuel economy law requires DOT to consider many factors in setting CAFE standards including economic practicability. In the safety area, if a manufacturer, for example, concludes that antilock brakes are an appropriate safety device, and moves to install antilocks on its vehicles without being required to do so, I think the interests of safety will have been served.

I think NHTSA's responsibility is to continue to ensure that safety needs are met. It must be careful not to act so hastily that it compromises the safety goal, but it must carry out its basic responsibility, consistent with the Secretary's stated priorities of safety, efficiency, and cost-effectiveness.

QUESTION 6: At the April 5 Consumer Subcommittee's hearing on S. 673, legislation to reauthorize NHTSA, NHTSA testified in opposition to the legislation. S. 673 would mandate a rulemaking in several areas to improve vehicle safety. Does the Bush Administration intend to continue the policies of the Reagan Administration on highway safety, or can we expect changes in position on highway safety issues?

ANSWER:

In its April 5 testimony before the Consumer Subcommittee, NHTSA stated that it is moving ahead on each of the safety areas addressed in the authorization bill and that additional legislation in these areas is not necessary. I find the NHTSA response reasonable.

POSTHEARING QUESTIONS OF SENATOR DANFORTH

NHTSA

QUESTION: This year's NHTSA authorization hearing clearly demonstrated that this agency is a ship without a rudder. NHTSA has failed to take basic steps to prevent highway fatalities for 10 years. It has not required minimum roof crush resistance, high center mounted brake lights, head restraints, or air bags for minivans and small trucks. It has permitted cars to be made with decorative bumpers. How will you and Secretary Skinner get NHTSA headed in the right direction?

RESPONSE:

The President has made an excellent nomination for the next Administrator of the National Highway Traffic Safety Administration. I am confident that General Curry is aware of and understands the Committee's frustration at the pace and direction of NHTSA rulemaking and will do everything he can to properly carry out the NHTSA safety and consumer protection statutes.

DRUG AND ALCOHOL TESTING

QUESTION: Last November, DOT issued a rule to require drug testing of various transportation professionals, including commercial marine vessel employees, on a random basis, periodically in conjunction with physical examinations, pre-employment, post-accident, and upon reasonable suspicion. This testing must be in place by December 21st of this year.

-- Why does the Coast Guard testing rule only provide for drug AND alcohol testing AFTER an accident like Valdez occurs? Isn't this closing the barn door after the horse escapes?

-- Doesn't the Valdez incident prove that both drug AND alcohol testing should be required under the same conditions and not just post-accident?

-- If confirmed, what role do you expect to take in considering the inclusion of alcohol in DOT's testing policies?

RESPONSE:

The Coast Guard alcohol abuse requirements are extensive, including rules prohibiting operation of a vessel when intoxicated (0.04 blood alcohol content or visible signs of intoxication), performance of any official duties sooner than four hours after consumption of alcohol, or consumption of any intoxicants while on

watch or duty. Violations may lead to administrative, civil, or criminal penalties. These prohibitions, and comparable ones in other transportation modes, have been in place for some time. Starting in 1987, the Department moved to close a major gap in the regulations in all modes, the absence of prohibitions on use of drugs, whether or not on-duty. These new rules are effective in December, but were not effective at the time of the Valdez grounding. Alcohol abuse continues to be a great concern in the transportation industry, and Secretary Skinner has indicated an interest in reviewing the need for stricter rules in that area. If confirmed, I would expect to participate in this review.

AIRLINE CONCENTRATION

QUESTION: You are familiar with the recent GAO report on airline concentration at Lambert Field, and DOT's ongoing study regarding this issue. Can you comment on the progress of the DOT study? When can we expect to see the results? Do you expect DOT to make recommendations of any kind, either administrative or legislative, based on these conclusions?

RESPONSE:

I am familiar with the plans in this area, and I understand that there is ongoing discussion between DOT and the General Accounting Office regarding sharing data and reviewing methodology. The Department's study will cover all aspects of the current competitive situation, including market structure, pricing behavior, capacity limitations of the airports and airways, computer reservations system issues, and the efficient use of overall system capacity. Recommendations of either an administrative or legislative nature may be made either on a short-term or long-term basis, but a schedule of precise dates has not been established.

COMPUTER RESERVATION SYSTEM MERGER

QUESTION: DOT is currently reviewing the American-Delta computer reservation system merger now pending before the Justice Department. Does DOT plan to get involved in any way?

RESPONSE:

This is an issue that is properly before the Justice Department since the termination of Section 408 authority over these matters at DOT this year. However, I understand that the Justice Department is seeking the Department's views, and that the opportunity is available to communicate views directly to that agency.

POST HEARING QUESTIONS OF SENATOR PRESSLER

QUESTION 1: Secretary of Transportation Skinner has said his principal goal at DOT will be to develop a new national transportation policy that strengthens both our national security and our nation's economy. What does that mean to you?

RESPONSE:

I believe that the development of a national transportation policy will permit us to weigh the competing transportation needs we face and to determine the balance needed to make the best use of our resources. A coherent policy will enable industry to provide efficient, competitive delivery of goods and services -- improving our national competitiveness -- while providing the greatest possible level of safety.

QUESTION 2: The Essential Air Service (EAS) program has received steady opposition from DOT, despite substantial Congressional support. What is your personal feeling regarding the preservation of air service to small communities through EAS subsidies.

My visits with members of the Senate have made me acutely aware of the high level of interest in maintaining the Essential Air Service subsidy program. As is the case for all other programs, the case for continuation of the progam does need to be weighed against competing needs. Secretary Skinner has stated that he will work with the Congress to address the problem of funding in this fiscal year and the overall future of the program. I agree with this approach and would expect to join in working out a resolution to the issue as quickly as possible.

QUESTION 3: Just last week, the Federal Railroad Administration testified before this committee that the federal government should have no financial role in the rehabilitation of our nation's railroad infrastructure, despite the growing importance of the regional railroad movement. As Deputy Secretary, what will be your position on programs like Local Rail Service Assistance?

RESPONSE:

The Staggers Rail Act of 1980 changed the economics of the railroad industry fundamentally, to the point where the industry's return on investment has doubled since the legislation was enacted. New freedom to convert low-density lines into free-standing short lines has also had a dramatic effect on the ability to maintain service in situations that would have lead to

abandonments in the past. With these changes, the need for a federal grant program such as Local Rail Service Assistance needs to be re-examinded. I am told that, for example, 20 states have now established their own LRSA-type programs. These entities are in a much better position than the federal government to make good judgments about the need for continued rail service in their localities. Therefore, we should reassess on a regular basis the benefits of LRSA-type programs in relation to competing transportation needs.

STATEMENT OF HON. CARLOS J. MOORHEAD, U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. Chairman, it is a privilege for me to speak in support of the appointment of Elaine Chao to be Deputy Secretary of Transportation.

Miss Chao is a highly intelligent and competent woman who has impeccable credentials for the job for which she has been nominated. Her reputation and character are above reproach and I personally believe that she would be an outstanding Deputy Secretary to the Department of Transportation. As the Chairman of the U.S. Maritime Commission and, prior to that as Deputy Administrator for the Maritime Administration, she acquired an excellent reputation for the manner in which she handled her job. She also has a long career of service in the private sector.

I have known Ms. Chao for a number of years and know of nothing which would detract from her outstanding qualifications for this position.

Thank you.

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